

Chapter 173-423 WAC
LOW EMISSION VEHICLES

NEW SECTION

WAC 173-423-010 Purpose. The purpose of this chapter is to establish rules implementing the California motor vehicle emission standards adopted by the 2005 legislature and codified in chapters 70.120A and 46.16 RCW.

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NEW SECTION

WAC 173-423-020 Applicability. This chapter applies to all 2009 and subsequent model year passenger cars, light duty trucks and medium duty passenger vehicles registered, leased, rented or sold for use in the state of Washington, except as provided in WAC 173-423-060, Exemptions.

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NEW SECTION

WAC 173-423-025 Effective date. This chapter is effective on January 1, 2006, provided the state of Oregon has adopted the California motor vehicle emission standards as provided in RCW 70.120A.010.

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NEW SECTION

WAC 173-423-030 Incorporation by reference. (1) This chapter incorporates by reference certain sections of the California Code of Regulations, Title 13, relating to implementing the California motor vehicle emission standards in the state of Washington. Table 070(1) found in WAC 173-423-070 lists the sections of the California Code of Regulations, Title 13 incorporated by reference and the California effective date for each section.

(2) Copies of the relevant sections of the California Code of Regulations, Title 13 incorporated by reference in this chapter are available on ecology's web site or by contacting:

Washington State Department of Ecology
Air Quality Program
300 Desmond Drive
Lacey, Washington 98503
360-407-6800

(3) For purposes of applying the incorporated sections of the California Code of Regulations, Title 13 in Washington, "California" means "Washington" unless otherwise specified in this chapter or clearly inappropriate.

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NEW SECTION

WAC 173-423-040 Definitions and abbreviations. The following definitions apply to the administration of this chapter. Any term that is not defined in this section shall be as defined or described in the California Code of Regulations, Title 13, section 1900. Definitions in the California Code of Regulations, Title 13, section 1900 will prevail if any discrepancy arises between them and those set forth in this section.

(1) "Emission credits" are earned when a manufacturer's reported fleet average is less than the required fleet average. Credits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) and 1961.1(b).

(2) "Emission debits" are earned when a manufacturer's reported fleet average exceeds the required fleet average. Debits are calculated according to formulas contained in the California Code of Regulations, Title 13, section 1961(c) and 1961.1(b).

(3) "Fleet average greenhouse gas emission requirements" are generally referred to as limitations on greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty passenger vehicles. The fleet average greenhouse gas emission requirements are set forth in CCR, Title 13, section 1961.1, and incorporated herein by reference.

(4) "Gross vehicle weight rating" or "GVWR" is the value specified by the manufacturer as the loaded weight of a single vehicle.

(5) "Independent low volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(6) "Intermediate volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(7) "Large volume manufacturer" is defined in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

(8) "Light duty truck" is any 2000 and subsequent model motor vehicle certified to the standards in Title 13, CCR, section 1961(a)(1) rated at 8,500 pounds gross vehicle weight or less, and any other motor vehicle rated at 6,000 pounds gross vehicle weight or less, which is designed primarily for the purposes of transportation of property or is a derivative of such vehicle, or is available with special features enabling off-street or off-highway operation and use.

(9) "Medium duty passenger vehicle" (MDPV) is any medium-duty vehicle with a gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of

persons. The medium-duty passenger vehicle definition does not include any vehicle which:

(a) Is an "incomplete truck," i.e., is a truck that does not have the primary load carrying device or container attached; or

(b) Has a seating capacity of more than twelve persons; or

(c) Is designed for more than nine persons in seating rearward of the driver's seat; or

(d) Is equipped with an open cargo area of 72.0 inches in interior length or more. A covered box not readily accessible from the passenger compartment will be considered an open cargo area for the purpose of this definition.

(10) "Model year" is the manufacturer's annual production period which includes January 1 of a calendar year. If the manufacturer has no annual production period, "model year" is the calendar year. In the case of any vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the chassis.

(11) "Nonmethane organic gas" or "NMOG" is the sum of nonoxygenated and oxygenated hydrocarbons contained in a gas sample as measured in accordance with the "*California Non-Methane Organic Gas Test Procedures*," and incorporated herein by reference.

(12) "NMOG fleet average emissions" is a motor vehicle manufacturer's average vehicle emissions of all nonmethane organic gases from passenger cars and light duty trucks in any model year delivered in Washington that are subject to this regulation.

(13) "Passenger car" is any motor vehicle designed primarily for transportation of persons and having a design capacity of twelve persons or less.

(14) "Small volume manufacturer" is defined as set forth in the California Code of Regulations, Title 13, section 1900 and incorporated herein by reference.

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NEW SECTION

WAC 173-423-050 Requirement to meet California vehicle emission standards. (1) Starting with the 2009 model year, no vehicle shall be registered, leased, rented, licensed or sold for use in the state of Washington unless such vehicle is certified to California emission standards, except as provided in WAC 173-423-060, Exemptions.

(2) The state of Washington will use the vehicle emission

standards used by California including:

(a) The exhaust emission standards set forth in the California Code of Regulations, Title 13, section 1961;

(b) The emission control label or smog index label requirements set forth in the California Code of Regulations, Title 13, section 1965;

(c) The evaporative emission standards set forth in the California Code of Regulations, Title 13, section 1976;

(d) The refueling emissions standards set forth in the California Code of Regulations, Title 13, section 1978;

(e) The malfunction and diagnostic system requirements set forth in the California Code of Regulations, Title 13, 1968.2;

(f) The specifications for fill pipes and openings of motor vehicle fuel tanks set forth in the California Code of Regulations, Title 13, section 2235; and

(g) The greenhouse gas emission standards as set forth in the California Code of Regulations, Title 13, section 1961.1.

(3) All vehicle manufacturers shall comply with the fleet average emission requirement, and the warranty, recall and other applicable requirements set forth in this chapter.

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NEW SECTION

WAC 173-423-060 Exemptions. The following vehicles are not subject to this chapter:

(1) Military tactical vehicles;

(2) Vehicles sold for registration and use out-of-state;

(3) Previously registered vehicles where the mileage at the time of sale exceeds seven thousand five hundred miles, provided that for vehicle dealers, the mileage at the time of sales is determined by the odometer statement at the time the vehicle dealer acquired the vehicle;

(4) Vehicles which are only available for rent to a final destination outside of Washington;

(5) Vehicles purchased by a nonresident prior to establishing residency in the state of Washington, regardless of the mileage on the vehicle;

(6) Vehicles transferred by inheritance or as a result of divorce, dissolution or legal separation; and

(7) An emergency vehicle when a public safety agency has demonstrated to the department of ecology's satisfaction that a

vehicle that will meet said agency's needs is not otherwise reasonably available.

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NEW SECTION

WAC 173-423-070 Emission standards, warranty, recall and other California provisions adopted by reference. Each manufacturer and each new 2009 and subsequent model year passenger car, light duty truck and medium duty passenger vehicle subject to this chapter shall comply with each applicable standard set forth in Table 070(1) and incorporated by reference:

Table 070(1)
California Code of Regulations (CCR)
Title 13
Provisions Incorporated by Reference
Effective in Washington January 1, 2006

| Title 13 CCR | Title | California Effective Date |
|---|--|--|
| Chapter 1 Motor Vehicle Pollution Control Devices | | |
| Article 1 General Provisions | | |
| Section 1900 | Definitions | 10/22/05 |
| Article 2 Approval of Motor Vehicle Pollution Control Devices (New Vehicles) | | |
| Section 1956.8 (g) and (h) | Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles | 12/14/03 |
| Section 1960.1 | Exhaust Emission Standards and Test Procedures - 1981 and through 2006 Model Passenger Cars, Light- Duty and Medium- Duty Vehicles | 10/16/02 |

| Title 13 CCR | Title | California Effective Date |
|---|--|--|
| Section 1961 | Exhaust Emission Standards and Test Procedures - 2004 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles | 12/04/03 |
| Section 1961.1 | Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles | 1/01/06 |
| Section 1965 | Emission Control and Smog Index Labels - 1979 and Subsequent Model Year Vehicles | 12/04/03 |
| Section 1968.2 | Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles | 4/21/03 |
| Section 1968.5 | Enforcement of Malfunction and Diagnostic System Requirements for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines | 4/21/03 |
| Section 1976 | Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions | 11/27/99 |
| Section 1978 | Standards and Test Procedures for Vehicle Refueling Emissions | 11/27/99 |
| Article 6 Emission Control System Warranty | | |
| Section 2035 | Purpose, Applicability and Definitions | 12/26/90 |

| Title 13 CCR | Title | California Effective Date |
|--|---|--|
| Section 2037 | Defects Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles | 11/27/99 |
| Section 2038 | Performance Warranty Requirements for 1990 and Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines Used in Such Vehicles | 11/27/99 |
| Section 2039 | Emission Control System Warranty Statement | 12/26/90 |
| Section 2040 | Vehicle Owner Obligations | 12/26/90 |
| Section 2046 | Defective Catalyst | 1/16/79 |
| Chapter 2 Enforcement of Vehicle Emission Standards and Enforcement Testing | | |
| Article 2 Enforcement of New and In-Use Vehicle Standards | | |
| Section 2109 | New Vehicle Recall Provisions | 11/27/99 |
| Article 2.1 Procedures for In-Use Vehicle Voluntary and Influenced Recalls | | |
| Section 2111 | Applicability | 8/21/02 |
| Section 2112 | Definitions | 11/15/03 |
| | Appendix A to Article 2.1 | 11/15/03 |
| Section 2113 | Initiation and Approval of Voluntary and Influenced Recalls | 1/26/95 |
| Section 2114 | Voluntary and Influenced Recall Plans | 11/27/99 |
| Section 2115 | Eligibility for Repair | 1/26/95 |
| Section 2116 | Repair Label | 1/26/95 |
| Section 2117 | Proof of Correction Certificate | 1/26/95 |

| Title 13 CCR | Title | California Effective Date |
|--|---|--|
| Section 2118 | Notification | 1/26/95 |
| Section 2119 | Recordkeeping and Reporting Requirements | 11/27/99 |
| Section 2120 | Other Requirements Not Waived | 1/26/95 |
| Article 2.2 Procedures for In-Use Vehicle Ordered Recalls | | |
| Section 2122 | General Provisions | 1/26/95 |
| Section 2123 | Initiation and Notification of Ordered Emission- Related Recalls | 1/26/95 |
| Section 2124 | Availability of Public Hearing | 1/26/95 |
| Section 2125 | Ordered Recall Plan | 1/26/95 |
| Section 2126 | Approval and Implementation of Recall Plan | 1/26/95 |
| Section 2127 | Notification of Owners | 1/26/95 |
| Section 2128 | Repair Label | 1/26/95 |
| Section 2129 | Proof of Correction Certificate | 1/26/95 |
| Section 2130 | Capture Rates and Alternative Measures | 11/27/99 |
| Section 2131 | Preliminary Tests | 1/26/95 |
| Section 2132 | Communication with Repair Personnel | 1/26/95 |
| Section 2133 | Recordkeeping and Reporting Requirements | 1/26/95 |
| Section 2135 | Extension of Time | 1/26/95 |
| Article 2.4 Procedures for Reporting Failure of Emission-Related Components | | |
| Section 2141 | General Provisions | 12/28/00 |
| Section 2142 | Alternative Procedures | 2/23/90 |
| Section 2143 | Failure Levels Triggering Recall | 11/27/99 |
| Section 2144 | Emission Warranty Information Report | 11/27/99 |
| Section 2145 | Field Information Report | 11/27/99 |
| Section 2146 | Emissions Information Report | 11/27/99 |

| Title 13 CCR | Title | California Effective Date |
|---|---|--|
| Section 2147 | Demonstration of Compliance with Emission Standards | 8/21/02 |
| Section 2148 | Evaluation of Need for Recall | 11/27/99 |
| Section 2149 | Notification of Subsequent Action | 2/23/90 |
| Chapter 4.4 Specifications for Fill Pipes and Openings of Motor Vehicle Fuel Tanks | | |
| Section 2235 | Requirements | 9/17/91 |

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NEW SECTION

WAC 173-423-080 Fleet average nonmethane organic gas (NMOG) exhaust emission requirements, reporting and compliance. (1) Fleet average requirement. Effective model year 2009, each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars and light duty trucks delivered for sale in Washington shall not exceed the Fleet Average NMOG Exhaust Emission Requirement set forth in the California Code of Regulations, Title 13, section 1961. Compliance shall be based on the number of vehicles, subject to this regulation, delivered for sale in the state of Washington.

(2) Fleet average NMOG exhaust emission credits and debits. Effective model year 2009, each vehicle manufacturer can accrue NMOG emission credits and debits and use credits in accordance with the procedures in the California Code of Regulations, Title 13, section 1961. Debits and credits accrued and used shall be based on the number of vehicles, subject to this chapter, produced and delivered for sale by each manufacturer, in the state of Washington.

(3) Reporting. Commencing with the 2009 model year, each manufacturer shall submit by March 1 a report to the department of ecology that shall include:

(a) Premodel year data which projects the fleet average NMOG exhaust emissions for vehicles expected to be delivered for sale in Washington.

(b) End-of-model year data which calculates the fleet average

NMOG exhaust emissions for the model year just ended.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961 and shall be in the same format used to report such information to the California Air Resources Board.

(4) Compliance with fleet average NMOG requirement. Beginning in model year 2013, if a report submitted by the manufacturer under subsection (3) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standard, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961, and in accordance with subsection (2) of this section.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

For model years 2009 through 2012 the Fleet Average Enforcement Report, if needed, must be submitted to the department of ecology by March 1, 2013. Any debits accrued in model years 2009 through 2012 must be equalized by the end of the 2013 model year.

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NEW SECTION

WAC 173-423-090 Fleet average greenhouse gas exhaust emission requirements, reporting and compliance. (1) Each manufacturer subject to the greenhouse gas provisions of this regulation shall comply with emissions standards, fleet average greenhouse gas exhaust mass emission requirements for passenger car, light duty truck, medium duty passenger vehicle weight classes, and other requirements of the California Code of Regulations, Title 13, section 1961.1.

(2) Large volume manufacturer. The fleet average greenhouse gas exhaust emission levels for passenger cars, light-duty trucks,

and medium-duty passenger vehicles produced and delivered for sale in the state of Washington by a large volume manufacturer for each 2009 and subsequent model year are established in the California Code of Regulations, Title 13, section 1961.1.

(3) Small, intermediate and independent manufacturers. The fleet average greenhouse gas exhaust emission requirements for passenger cars, light-duty trucks, and medium-duty passenger vehicles delivered for sale in the state of Washington by small volume, intermediate volume and independent low volume manufacturers are set forth in the California Code of Regulations, Title 13, section 1961.1, which specifies that requirements for these manufacturers are waived prior to the 2016 model year.

(4) Greenhouse gas credits and debits. Greenhouse gas credits and debits may be accrued and used based on each manufacturer's sale of vehicles in Washington in accordance with the California Code of Regulations, Title 13, section 1961.1.

(5) Optional alternative compliance with greenhouse gas emission standards. Greenhouse gas vehicle test groups that are certified pursuant to the California Code of Regulations, Title 13, section 1961.1(e)(2)(a) in the state of California may receive equivalent credit if delivered for sale and use in the state of Washington.

(6) Alternative compliance credit. A manufacturer shall submit to the department of ecology the data set forth in the California Code of Regulations, Title 13, section 1961.1(e)(2)(a)(i) for Washington specific sale and use in order to receive the credit identified in subsection (5) of this section.

(7) Reporting on greenhouse gas requirements. Beginning with the 2009 model year, each manufacturer shall submit by March 1 a report to the department of ecology that shall include:

(a) Premodel year data which projects the fleet average greenhouse gas emissions for vehicles expected to be delivered for sale in Washington.

(b) End-of-model year data which calculates the fleet average greenhouse gas emissions for the model year just ended. The report shall include the number of greenhouse gas vehicle test groups, delineated by model type, certified pursuant to the California Code of Regulations, Title 13, section 1961.1.

The report shall follow the procedures in the California Code of Regulations, Title 13, section 1961.1 and shall be in the same format used to report such information to the California Air Resources Board.

(8) Compliance with fleet average greenhouse gas requirements. Beginning in model year 2009, if the report submitted by the manufacturer under subsection (7) of this section demonstrates that the manufacturer is not in compliance with the fleet average emission standards, the manufacturer must submit to the department of ecology within sixty days a Fleet Average Enforcement Report. The Fleet Average Enforcement Report shall:

(a) Describe how the manufacturer intends to equalize any accrued debits, as required in the California Code of Regulations, Title 13, section 1961.1.

(b) Identify all vehicle models delivered for sale in Washington, their corresponding certification standards, and the percentage of each model delivered for sale in Washington and California in relation to total fleet sales in the respective state.

(c) Describe how the manufacturer plans to achieve compliance with the fleet average in future model years.

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NEW SECTION

WAC 173-423-100 Manufacturer delivery reporting requirements.

(1) The manufacturer shall submit to the department of ecology one copy of the California Executive Order and Certificate of Conformity for certification of new motor vehicles for each engine family to be sold in the state of Washington within thirty days of receiving the Executive Order from the California Air Resources Board. If such reports are available electronically, the manufacturer shall send the record in an electronic format acceptable to the department of ecology. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

(2) Commencing with the 2009 model year, prior to the beginning of each model year, each manufacturer shall submit to the department of ecology a list of all models of medium duty vehicles and medium duty passenger vehicles that will be delivered to Washington dealers. Medium duty vehicles are those with a GVWR of 8,501 to 14,000 pounds.

(3) Upon request, each manufacturer shall report to the department of ecology the vehicle identification numbers (VIN) of each passenger car, light duty truck and medium duty passenger vehicle delivered to each Washington dealer that is not certified to California emission standards.

(4) For the purposes of determining compliance with this chapter, the department of ecology may require any vehicle manufacturer to submit any documentation the department of ecology deems necessary to the effective administration and enforcement of this chapter, including all certification materials submitted to the California Air Resources Board.

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NEW SECTION

WAC 173-423-110 Warranty requirements. (1) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall provide, to the ultimate purchaser and each subsequent purchaser, a warranty that complies with the requirements set forth in the California Code of Regulations, Title 13, sections 2035 through 2038, 2040, and 2046.

(2) For all 2009 and subsequent model year vehicles subject to the provisions of this chapter, each manufacturer shall include the emission control system warranty statement that complies with the requirements in the California Code of Regulations, Title 13, section 2039. Manufacturers may modify this statement as necessary to inform Washington vehicle owners of the applicability of the warranty. The manufacturer shall provide a telephone number appropriate for Washington residents.

(3) All manufacturers shall submit to the department of ecology Failure of Emission-Related Components reports as defined in the California Code of Regulations, Title 13, section 2144 for vehicles subject to this regulation. For purposes of compliance with this requirement, manufacturers may submit copies of the Failure of Emission-Related Components reports that are submitted to the California Air Resources Board, in lieu of submitting reports for vehicles subject to this chapter. Manufacturers may discontinue submitting these reports if so notified by the department of ecology.

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NEW SECTION

WAC 173-423-120 Recalls. (1) Any order or enforcement action taken by the California Air Resources Board to correct noncompliance with any section of Title 13, which results in the recall of any vehicle pursuant to the California Code of Regulations, Title 13, sections 2109 through 2135, shall be applicable to vehicles registered in the state of Washington. If the manufacturer can demonstrate to the department of ecology's

satisfaction that the action is not applicable to vehicles registered in Washington, the action shall not apply in Washington.

(2) Any voluntary or influenced emission-related recall campaign initiated by any manufacturer pursuant to the California Code of Regulations, Title 13, sections 2113 through 2121 shall extend to all applicable vehicles registered in Washington. If the manufacturer can demonstrate to the department of ecology's satisfaction that said campaign is not applicable to vehicles registered in Washington, the campaign shall not apply in Washington.

(3) For vehicles subject to an action pursuant to subsection (1) of this section, each manufacturer shall send to owners of vehicles registered in the state of Washington a notice that complies with the requirements in the California Code of Regulations, Title 13, sections 2118 or 2127. Such notice shall contain a telephone number appropriate for Washington residents.

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NEW SECTION

WAC 173-423-130 Surveillance. (1) The department of ecology may inspect new and used motor vehicles and related records for the purposes of determining compliance with the requirements of this chapter. Department of ecology inspections shall occur during regular business hours and on any premises owned, operated or used by any dealer or rental car agency.

(2) For the purposes of determining compliance with this chapter, the department of ecology may require any vehicle dealer or rental car agency to submit any documentation the department of ecology deems necessary to the effective administration and enforcement of this chapter. This provision does not require creation of new records.

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NEW SECTION

WAC 173-423-140 Enforcement. Any person who violates any provision of this chapter shall be liable for a civil penalty not to exceed five thousand dollars per vehicle. Penalties provided in this section shall be imposed pursuant to RCW 43.21B.300.

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NEW SECTION

WAC 173-423-150 Severability. Each section of this regulation shall be deemed severable, and in the event that any section of this regulation is held invalid, the remainder shall continue in full force and effect.

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